

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 2:18-cr-122-JDL-2
)	
DUSTY LEO)	

Prosecution Version

If this case went to trial, the government would introduce evidence to prove beyond a reasonable doubt that on April 15, 2018, Defendant Dusty Leo committed a racially-motivated assault, in violation of 18 U.S.C. § 249(a)(1), and that on the same day Defendant Dusty Leo conspired with his co-defendant, Maurice Diggins, to commit that racially-motivated assault, in violation of 18 U.S.C. § 371. That evidence would consist of physical evidence, official records, and testimony of both law enforcement and lay witnesses, and would prove the following facts beyond a reasonable doubt:

The Old Port Assaults

1. Prior to April 14, 2018, Defendant Dusty Leo knew that his uncle and co-defendant, Maurice Diggins, subscribed to white supremacist views and had a strong dislike of racial minorities.
2. On Saturday, April 14, 2018, the defendants used Defendant Leo's pick-up truck to travel to Portland, Maine.
3. Just before 1:00 a.m., on Sunday, April 15, 2018, the defendants were on Commercial Street near the Silver House Tavern, a bar in the Old Port, when Defendant Diggins began attacking black men. The attacks were unprovoked, and Defendant Diggins used racial slurs as he was beating the black men. One of the black men that Defendant Diggins attacked

without provocation was A.N., a Sudanese immigrant. A.N. suffered a broken jaw because of the assault. Another black man, R.D., was also injured as a result of the unprovoked attacks.

4. After assaulting A.N. and R.D., Defendant Diggins attempted to beat another black man, K.L.

5. After the incidents with A.N., R.D., and K.L., the defendants returned to Defendant Leo's truck, which was parked on Commercial Street. Defendant Leo, Defendant Diggins, and Defendant Diggins's wife got in the truck, and drove back to Biddeford, Maine, where the three lived at the time.

The Biddeford Attack

6. At around 2 a.m., D.M., a black man, was walking up to the entrance of a 7-Eleven convenience store in Biddeford.

7. As D.M. walked towards the 7-Eleven, Defendant Leo's truck sped into the store's parking lot. Defendant Diggins was driving the truck at the time, and Defendant Leo was in the passenger seat. After the truck came to a stop, Defendant Diggins got out of the truck and approached D.M. At that point, Defendant Leo heard Defendant Diggins call out at D.M. words to the effect of: "Who you eyeballin', Nigger?" As Defendant Diggins continued to speak to D.M. in this manner, he moved to place himself between D.M. and the entrance to the 7-Eleven. Then, Defendant Diggins circled D.M., causing D.M. to turn his back to Defendant Leo's truck. Once D.M. was between Defendant Diggins and the truck, Defendant Leo got out of the truck, came around the hood of the car, and sucker-punched D.M. in the jaw. After the punch, D.M. fled the parking lot. As D.M. fled, Defendant Leo initially followed D.M. on foot. Once D.M. exited the parking lot, the defendants returned to Defendant Leo's truck, got in, started the vehicle, and drove after D.M., while yelling racial slurs.

8. At the time of the assault, the defendants had never spoken to or met D.M. The unprovoked attack broke D.M.'s jaw in various places.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I filed this document on February 24, 2020, through the ECF system, which will automatically send notice electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Sheila W. Sawyer
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